

UTAH STATE PLAN ATTACHMENT 4.19-D
NURSING HOME REIMBURSEMENT
FOR SERVICES AFTER JUNE 30, 1981

NURSING HOME REIMBURSEMENT

The State has in place a public process which complies with the requirements of Section 1902(a)(13)(A) of the Social Security Act.

T.N. # 97-015

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T.N. # 06-006Approval Date 9-27-06Supersedes T.N. # 95-12Effective Date 7-1-06

100 GENERAL DESCRIPTION

110 INTRODUCTION

Attachment 4.19-D covers two types of providers. One is a licensed nursing facility (NF). The other is an intermediate care facility for the mentally retarded (ICF/MR). The cost definition and reporting are similar.

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200 DEFINITIONS

FACILITY means:	An institution that furnishes health care to patients.
PROVIDER means:	A licensed facility or practitioner who provides services to Medicaid clients.
STATE means:	The State of Utah, Department of Health, Division of Health Care Financing.
ACCRUAL BASIS means:	That method of accounting wherein revenue is reported in the period when it is earned, regardless of when it is collected and expenses are reported in the period in which they are incurred, regardless of when they are paid.
PLAN means:	The Medicaid plan prepared by the State of Utah in response to Federal program requirements for Title XIX, ATTACHMENT 4.19-D.
CMS - PUB. 15-1 means:	The Medicare Provider Reimbursement Manual published by the U.S. Department of Health and Human Services that defines allowable cost and provides guidance in reporting costs.
PATIENT DAY means:	Care of one patient during a day of service. In maintaining statistics, the day of admission is counted as a day of care, but the day of discharge is not counted as a day of patient care.
FCP means:	The Facility Cost Profile (FCP) is the report filed by providers, containing revenue, cost and patient day data by financial classification, and bed data.
DEPARTMENT means:	Utah State Department of Health.
NURSING FACILITY means:	A licensed nursing facility (NF) that provides long term care.
ICF/MR means:	A licensed Intermediate Care Facility for the Mentally Retarded that provides long term care.
FRV means	This is the Fair Rental Value of the facility as calculated each July 1. It reflects the fair rental market value of the facility. (See Section 634)

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200 DEFINITIONS (Continued)

FRV DATA REPORT means:	The Fair Rental Value Data report is an optional report that provides the State with more timely information for inclusion in the FRV calculation.
BANKED BEDS means:	Beds that have been taken off-line by the provider, through the process defined by Utah Department of Health, Bureau of Facility Licensing, to reduce the operational capacity of the facility, but does not reduce the licensed bed capacity. (Used in FRV calculation.)
LABOR COSTS means:	Labor costs as reported on the FCPs, but not including FCP reported management, consulting, director, and home office fees.
BED REPLACEMENT means:	As used in the fair rental value calculation, a capitalized project that furnishes a bed in the place of another, previously existing, bed. Room remodeling is not considered a replacement of beds, rather it is to be new and complete construction. Beds that had been previously banked and have since come back online (i.e., unbanked) are not considered replacement beds.
MAJOR RENOVATION means:	As used in the fair rental value calculation, a capitalized project with a cost equal to or greater than \$500 per licensed bed. Renovations extend the life, increase the productivity, or significantly improve the safety (e.g., asbestos removal) of a facility as opposed to repairs and maintenance which either restore the facility to, or maintain it at, its normal or expected service life. Vehicle costs are not considered as major renovation capital expenditure items.
BED ADDITION means:	As used in the fair rental value calculation, a capitalized project which adds additional beds to the facility. This is to be new and complete construction. Beds that had been previously banked and have since come back online (i.e., unbanked) are not considered additional beds. An increase in total licensed beds and new construction costs will support claims of additional beds.

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300 REPORTING AND RECORDS

310 INTRODUCTION

This section of the State Plan addresses five major areas: (1) the accrual basis of accounting; (2) reporting and record keeping requirements; (3) FCP reporting periods; (4) State audits; and (5) federal reporting.

320 BASIS FOR ACCOUNTING

Long-term care providers must submit financial cost reports which are prepared using the accrual basis of accounting in accordance with Generally Accepted Accounting Principles. To properly facilitate auditing and rate calculations, the accounting system must be maintained so that expenditures can be grouped in accounting classifications specified in the facility cost profile (FCP).

330 REPORTING AND RECORD KEEPING

The FCP is the basic document used for reporting historical costs, revenue and patient census data. The FCP is sent to providers at least 60 days prior to the due date.

The Fair Rental Value Data Report is used for reporting banked beds, capital improvements and related items for use in the FRV calculation.

331 FACILITY COST PROFILES

The FCP represents the presentation of the costs involved in providing patient care. Therefore, it is essential that the FCPs are filed with accurate and complete data. The provider, and not the auditor authorized by the State, is responsible for the accuracy and appropriateness of the reported information.

331b FAIR RENTAL VALUE DATA REPORT

In order to recognize, in a more timely manner, facility construction costs and bed banking, this optional report must be submitted if the facility wishes the Department to include that information in calculating its Fair Rental Value.

332 REPORTING

FCP: The FCP is due two months after the end of the reporting period. (See Section 340) The provider may request a 15-day extension for extenuating circumstances. The request must be made in writing prior to the due date. The State may grant a 15-day extension only when justified. Failure to file timely FCPs can result in the withholding of payments as described in Section 720.

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300 REPORTING AND RECORDS (Continued)

FRV Data Report: This report is due on the first business day of March. This report is optional, but must be submitted for the data to be used in the following July 1 FRV calculation. Failure to submit this report, or having submitted it late, will preclude the information from being used in the following July 1 FRV calculation.

333 RECORD RETENTION

The State is responsible for keeping the FCPs on file for at least four years following the date of submission. The provider is responsible for maintaining sufficient financial, patient census, statistical, and other records for at least four years following the date of the FCP submission. These records are to be made available to representatives of the State and Federal Governments. The records must be in sufficient detail to substantiate the data reported on the FCP.

340 REPORTING PERIODS

FCP: Generally, the FCP reporting period is for 12 months. However, when there is a new facility or a change in owners or operators, there may be reporting periods of less than 12 months. The reporting period is July 1 through June 30 for NFs and ICF/MRs. Other reporting periods must be approved by the Department of Health. For exceptions to the designated reporting period, the provider must submit a written request 60 days prior to the first day of the reporting period and the State must issue a written ruling on the request.

FRV Data Report: Generally, the FRV Data Report reporting period is for 12 months. However, when there is a new facility or a change in owners or operators, there may be reporting periods of less than 12 months. Normally, the reporting period is March 1 through February 28 or 29. (Capital improvements meeting the criteria set forth in Section 634, having been completed between January 1, 2006 and February 28, 2006 are to be reported as part of the FRV Data Report covering March 1, 2006 through February 28, 2007.)

350 STATE AUDITS

The State will desk review all FCPs and perform selective audits. In completing the audits, the State, either directly or through contract, will provide for an on-site audit of selected FCPs. The auditor is responsible for verifying the reported allowable costs. The appropriateness of these costs is to be judged in accordance with the intent of the guidelines established in CMS-Pub. 15-1, except as otherwise stated in this plan. Audits are conducted in accordance with generally accepted auditing standards. Audits are primarily oriented toward verification of costs reported on the FCP. In determining if the costs are allowable, the auditor examines documentation for expenditures, revenues, patient census and other relevant data.

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400 ROUTINE SERVICES

410 INTRODUCTION

This section specifies the services covered in the per diem payment rate and the ancillary services that are billed separately. Because of the difficulty of defining all of the routine services, section 430 specifies those services that are billed directly. Other services are covered by the routine payment rates paid to long-term care providers.

420 ROUTINE SERVICES

The Medicaid per diem payment rate covers routine services. Such routine services cover the hygienic needs of the patients. Supplies such as toothpaste, shampoo, facial tissue, disposable briefs, and other routine services and supplies specified in 42 CFR 483.10 are covered by the Medicaid payment rate and cannot be billed to the patient. The following types of items will be considered to be routine for purposes of Medicaid costs reporting, even though they may be considered ancillary by the facility:

1. All general nursing services including, but not limited to, administration of oxygen and related medications, hand-feeding, incontinency care, tray service, and enemas.
2. Items furnished routinely and relatively uniformly to all patients, such as patient gown, water pitchers, basins, and bedpans.
3. Items stocked at nursing stations or on the floor in gross supply, such as alcohol, applicators, cotton balls, bandaids, suppositories, and tongue depressors.
4. Items used by individual patients which are reusable and expected to be available such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment and other durable medical equipment.
5. Special dietary supplements used for tube feeding or oral feeding except as provided in Section 430 item 3.
6. Laundry services.
7. Annual dental examination for ICF/MR patients only.
8. Transportation to meet the medical needs of the patient, except for emergency ambulance.

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400 ROUTINE SERVICES (Continued)

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9. Medical supplies and non-prescription pharmacy items. Supplies include, but are not limited to: syringes, ostomy supplies, irrigation equipment, dressings, catheters, elastic stockings, test tape, IV set-up, colostomy bags, etc.
 10. Medical consultants.
 11. Physical therapy, occupational therapy, speech therapy and audiology examinations for ICF/MR patients only.
 12. All other services and supplies that are normally provided by long-term care providers except for the non-routine services specified in Section 430.

430 NON-ROUTINE SERVICES

These services are considered ancillary for Medicaid payment. The costs of these services should not be included on the FCP, but should be billed directly. Such billings are to be made by the supplier and not the long-term care provider. These services are:

1. Physical therapy, speech therapy, and audiology examinations for nursing facility patients only.
2. Oxygen.
3. Prescription drugs (legend drugs) plus antacids, insulin and total nutrition, parenteral or enteral diet given through gastrostomy, jejunostomy, IV or stomach tube. In addition, antilipemic agents and hepatic agents or high nitrogen agents are billed by pharmacies directly to Medicaid.
4. Prosthetic devices to include (a) artificial legs, arms, and eyes and (b) special braces for the leg, arm, back and neck.
5. Physician services for direct patient care.
6. Laboratory and radiology.
7. Dental services except annual examinations for ICF/MR patients.
8. Emergency ambulance for life threatening or emergency situations.
9. Other professional services for direct patient care, including psychologists, podiatrists, optometrists, and audiologists.

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400 ROUTINE SERVICES (Continued)

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10. Eye glasses, dentures, and hearing aids.
 11. Special equipment approved by Medicaid for individual clients is covered. This equipment is currently limited to air flotation beds and water flotation beds that are self-contained, thermal regulated, and alarm regulated, and mattresses and overlays specific for decubitus care, and customized (Medicaid definition) and motorized wheelchairs.

431 DEFINITION OF PROSTHETIC DEVICES

Medicaid defines prosthetic devices to include (1) artificial legs, arms, and eyes; (2) special braces for the leg, arm, back, and neck; and (3) internal body organs. Specifically excluded are urinary collection and other retention systems. This definition requires catheters and other devices related to be covered by the per diem payment rate.

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500 ALLOWABLE COSTS

501 GENERAL

Allowable costs will be determined using the Medicare Provider Reimbursement Manual (CMS-Pub. 15-1), except as otherwise provided in this Plan.

520 OWNERS COMPENSATION

Owners and their families may claim salary costs as permitted by CMS-Pub. 15-1.

530 FRINGE BENEFITS

Benefits are allowed as permitted by CMS-Pub. 15-1.

540 ALTERNATIVE PROGRAMS

Some long-term care providers provide specialized programs which are not covered by Medicaid. One such program is day care for older people living in their own homes. Such programs are carved out of the FCP as non-allowable costs. In completing the cost finding for the Medicaid program, two alternatives are available. First, at the election of the provider or when prior approval is not obtained, Medicare cost-finding methodology will apply. Under Medicare cost-finding the specialized program receives its share of overhead allocation on a step-down schedule incorporated in the annual cost report. However, the provider may submit and the State may approve, alternative revenue offsets as opposed to cost finding. Advance approval must be obtained prior to the beginning of the reporting period.

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600 PROPERTY

600 INTRODUCTION

The purpose of this Section is to explain the calculation of the property component of the nursing care facility reimbursement rate. The property component will be calculated each July 1 using a Fair Rental Value methodology as discussed in Section 634.

T.N. # 06-006Approval Date 9-27-06Supersedes T.N. # 04-005Effective Date 7-1-06

600 PROPERTY (Continued)

634 FAIR RENTAL VALUE FOR PROPERTY

Property costs will be calculated and reimbursed as a component of the facility rate based on a Fair Rental Value (FRV) System.

- (a) Under this FRV system, the Department reimburses a facility based on the estimated current value of its capital assets in lieu of direct reimbursement for depreciation, amortization, interest, and rent or lease expenses. The FRV system establishes a nursing facility's bed value based on the age of the facility and total square footage.
 - (i) The initial age of each nursing facility used in the FRV calculation is determined as of September 15, 2004, using each facility's initial year of construction.
 - (ii) The age of each facility is adjusted each July 1 to make the facility one year older.
 - (iii) The age is reduced for replacements, major renovations, or additions placed into service since the facility was built, provided there is sufficient documentation to support the historical changes.
 - A. If a facility adds new beds, these new beds are averaged into the age of the original beds to arrive at the facility's age.
 - I. The project must have been completed during a 24-month period and reported on the FRV Data Report for the reporting period used for the July 1 rate year and be related to the reasonable functioning of the nursing facility.
 - B. If a facility has replacement beds, these replacement beds are averaged into the age of the original beds to arrive at the facility's age.
 - I. The project must have been completed during a 24-month period and reported on the FRV Data Report for the reporting period used for the July 1 rate year and be related to the reasonable functioning of the nursing facility.
 - C. If a facility completed a major renovation, the cost of the project is represented by an equivalent number of new beds.

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600 PROPERTY (Continued)

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- (I) The project must have been completed during a 24-month period and reported on the FRV Data Report for the reporting period used for the July 1 rate year and be related to the reasonable functioning of the nursing facility. Renovations unrelated to either the direct or indirect functioning of the nursing facility shall not be used to adjust the facility's age.
 - (II) The equivalent number of new beds is determined by dividing the cost of the project by the accumulated depreciation per bed of the facility's existing beds immediately before the project.
 - (III) The equivalent number of new beds is then subtracted from the total actual beds. The result is multiplied by the difference in the year of the completion of the project and the age of the facility, which age is based on the initial construction year or the last reconstruction or renovation project. The product is then divided by the actual number of beds to arrive at the number of years to reduce the age of the facility.
- (b) A nursing facility's fair rental value per diem is calculated as follows:

As used in this subsection (b), "capital index" is the percent change in the nursing home "Per bed or person, total cost" row and "3/4" column as found in the two most recent annual R.S. Means Building Construction Cost Data as adjusted by the weighted average total city cost index for Salt Lake City, Utah.

- (i) On July 1, 2004, the buildings and fixtures value per licensed bed is \$50,000, which is based upon a standard facility size of at least 450 square feet determined using the R.S. Means Building Construction Cost Data adjusted by the weighted average total city cost index for Salt Lake City, Utah. To this \$50,000 is added 10% (\$5,000) for land and 10% (\$5,000) for movable equipment. Each nursing facility's total licensed beds are multiplied by this amount to arrive at the "total bed value." The total bed value is trended forward by multiplying it by the capital index and adding it to the total bed value to arrive at the "newly calculated total bed value." The newly calculated total bed value is depreciated, except for the portion related to land, at 1.50 percent per year according to the weighted age of the facility. The maximum age of a nursing facility shall be 35 years. There shall be no recapture of depreciation. The base value per licensed bed is updated annually using the R.S. Means Building Construction Cost Data as noted above.

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600 PROPERTY (Continued)

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- (ii) A nursing facility's annual FRV is calculated by multiplying the facility's newly calculated bed value times a rental factor. The rental factor is the sum of the 20-year Treasury Bond Rate as published in the Federal Reserve Bulletin using the average for the calendar year preceding the rate year and a risk value of 3 percent. Regardless of the result produced in this subsection (ii), the rental factor shall not be less than 9 percent or more than 12 percent.
 - (iii) the facility's annual FRV is divided by the greater of:
 - (A) the facility's annualized actual resident days during the cost reporting period;
or
 - (B) 75 percent of the annualized operational bed capacity of the facility; however, the Department recognizes banked beds only as reported in the most recent FRV Data Report.
 - (iv) The FRV per diem determined under this fair rental value system shall be no lower than \$8 per patient day.
- (c) A pass-through component of the rate is applied and is calculated as follows:
- (i) The nursing facility's per diem property tax and property insurance cost is determined by dividing the sum of the facility's allowable property tax and property insurance costs, as reported in the most recent FCP or FRV Data Report, as applicable, by the facility's actual total patient days.

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600 PROPERTY (Continued)

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- (ii) For a newly constructed facility that has not submitted an FCP or FRV Data Report, the per diem property tax and property insurance is the average daily property tax and property insurance cost of all facilities in the FRV calculation.

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600 PROPERTY (Continued)

Age Calculation Illustration For Bed Additions Projects**Example Facility**

Year of Construction: (Base Year)	1960 (A)
Initial Beds	25 (B)
Current Licensed Beds	45 (C)

Example of Bed Addition Calculation

Number of Beds Added	20 (D)
Year of Addition	1975 (E)

Calculation of Weighted Average Age of beds

Initial Construction Beds	25 (B)
Year of Replacement (1975) minus (year of Construction (1960)	15 Age (years) (E-A)
	375 (F)=(B)*[(E-A)]

Weighted Average Age of Beds	8.33 (G)=(F)/(B)+(D)
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New Base Year	1967 (E)-(G)
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Age Calculation Illustration For Bed Replacement Projects**Example Facility**

Year of Construction: (Base Year)	1969 (A)
Current Licensed Beds	45 (B)

Example of Bed Replacement Calculation

Number of Beds Replaced	15 (c)
Year of Replacement	1995 (D)
Difference in Years	26 (E)

Calculation of Weighted Average Age of beds

Initial Construction Beds	45 (B)
Year of Replacement (1995) minus Base year (1969)	26 Age (years)
	780 (F)=(B-(c))*[(D)-(A)]

Weighted Average Age of Beds	17.33 (G)=(F)/(B)
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New Base Year	1978 (D)-(G)
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600 PROPERTY (Continued)

Age Calculation Illustration For Renovation ProjectsAssumptions:

Year of Construction: 1964
 Year of Addition: 1992
 Cost of Addition: \$300,093
 Rental Value in Year of Addition per Bed: \$36,655
 Depreciation Rate: 1.5%
 Current Rental Value per Bed: \$55,000
 Rental Rate: 9%
 Original Construction Beds: 52
 Current Year: 2004

Calculation:

Year of Addition (1992) minus Year of Construction (1964)	28 (A)
Rental Value in Year of Addition	36,655 (B)
Depreciation Rate	1.50% (C)
Accumulated Depreciation per bed (A)*(B)*(C)	15,395 (A)*(B)*(C)
Cost of Addition	<u>\$300,093</u> (D)
Accum. Depreciation per Bed	15,395 (E)
Bed Equivalent for Addition	19.49 (D)/(E)
Year of Addition	1992 (F)
Original Construction Beds	52 (G)
Bed Equivalent for addition	<u>(19.49)</u> (H)
	32.51 (I)=(G)-(H)
Year of Addition (1992) minus Year of Construction (1964)	<u>28</u> (A)
	910.20 (J)=(I)*(A)
Original Construction Beds: 52	<u>52</u> (K)
Weighted Average Age of beds	17.50 (L)=(J)/(K)
New Base Year (Year of Construction)	1974 (M)=(F)-(L)
Current Year	2004 (N)
New Base Year	<u>1974</u> (M)
Adjusted Age of Facility	30 (O)=(N)-(M)
Rental Value:	
Current Rental Value per bed	\$55,000 (P)
Original Beds	<u>52</u> (G)
Total Rental Value	\$2,860,000 R=(P)*(G)
Accumulated Depreciation:	
Current Rental Value per Bed	\$55,000 (P)
Original Beds	52 (G)
Depreciation Rate	0.015 (C)
Adjusted Age (in Years)	<u>30</u> (O)
Accumulated Depreciation:	<u>\$1,287,000</u> (U)=(P)*(G)*(C)*(O)
Net Rental Value	\$1,573,000 (V)=R-(U)
Rental Rate 9%	<u>0.09</u> (W)
Rental Amount	<u>\$141,570</u> (X)=(V)*(W)

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700 PAYMENT TO PROVIDERS

710 INTRODUCTION

Payments for routine nursing facility services will be made monthly. These payments will be based on the established rate.

720 WITHHOLDING PAYMENTS

In order to assure compliance with selected policy and to assure collection of outstanding obligations, the State may withhold payment for the following reasons:

1. Shortages in Patient Trust Accounts

Upon written notification that an examination of a patient trust fund account revealed an irreconcilable shortage, the facility must make a cash deposit in the full amount of the shortage within 10 days of notification. Within 30 days of such notification, documentary evidence must be presented to the Division of Health Care Financing attesting to this deposit. Failure to comply with this requirement will result in the withholding of the Title XIX payments. The cash transaction to transfer cash to the patient's account is not an allowable cost.

2. Failure to Submit Timely FCPs

Reporting period requirements are specified in Section 332 title "Reporting". If the provider fails to meet these requirements, the State may withhold payment until such time as an acceptable FCP is filed. FCPs must be complete before they are considered filed.

3. Liabilities to the State

When the State has established an overpayment, payments to the provider may be withheld. For ongoing operations, the Department will provide a 30-day notice before withholding payments. The Department may immediately withhold Title XIX payments without giving 30-days notice if it believes the delay may jeopardize the recovery. The Department and provider may negotiate a repayment schedule acceptable to the Department for monies owed to the Department. The repayment schedule may not exceed 180 days.

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700 PAYMENT TO PROVIDERS (Continued)

4. Failure to submit timely and/or accurate Minimum Data Set (MDS) data

MDS data is used in calculating each facility's quarterly case mix index. The State may withhold Title XIX payments until such time as the facility:

- (a) becomes current in their MDS data submission as described in the Long-Term Care Facility Resident Assessment Instrument User's Manual; and/or
- (b) corrects accuracy issues within their MDS data as described in the Long-Term Care Facility Resident Assessment Instrument User's Manual.

730 LIMITATIONS ON PAYMENT

Payments will not exceed the upper limit for specific services as defined in 42 CFR 447.272.

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800 APPEALS

810 RATE DISAGREEMENTS

Providers may challenge the payment rate established pursuant to Section 900 using the Administrative Hearing Procedures as contained in Administrative Rules (R410-14). This applies to the rate methodology used as well as to the specifics of implementation of the methodology. Providers must exhaust administrative remedies before challenging rates in State or Federal Court.

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900 RATE SETTING FOR NFs

900 GENERAL INFORMATION

Rate setting is completed by the Division of Health Care Financing (DHCF). Cost and utilization data is evaluated from facility cost profiles. The annual Medicaid budget requests include inflation factors for nursing facilities based on the Producer Price Index published by the U. S. Department of Labor Statistics. The actual Inflation will be established by the Utah State Legislature based on economic trends and conditions. Consideration will be given to the inflation adjustments given in prior years relative to the Producer Price Index.

920 RATE SETTING

Effective July 2, 2004, the base line per diem rate for all patients in the facility consists of:

- 1) a RUGs component (See Section 921),
- 2) a flat rate component (See Section 922), and
- 3) a property component (See Section 600).

Historical costs were initially used for the flat rate and RUGs components of the rate. Changes have been made as to the cost centers that make up these two components as discussed in sections 921 and 922. The 50th percentile is used as a baseline for reasonable costs for the flat rate component. The RUGs component was based, in calendar year 2005, on historical costs at the 96th percentile. These historical costs will be adjusted periodically by inflation factors as discussed in Section 900.

The historical cost calculation, although utilizing the facility cost profiles, will be adjusted to account for certain "add on" payments including, intensive skilled payment enhancements, specialized rehabilitation services (SRS) payment enhancements, behaviorally challenging payment enhancements and any other enhancement payments that Medicaid may initiate in the future to enhance the quality of care in nursing care facilities.

The property component of the per diem rate will be calculated using a Fair Rental Value (FRV) methodology. This methodology is discussed in detail in Section 634.

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900 RATE SETTING FOR NFs (Continued)

1. And, the resident has a history of regular/recurrent persistent disruptive behavior which is not easily altered evidenced by one or more of the following which requires an increased resource use from Nursing facility staff:
 - The resident engages in wandering behavior moving with no rational purpose, seemingly oblivious to their needs or safety,
 - The resident engages in verbally abusive behavioral symptoms where others are threatened, screamed at, cursed at,
 - The resident engages in physically abusive behavioral symptoms where other residents are hit, shoved, scratched, and sexually abused,
 - The resident engages in socially inappropriate/disruptive behavioral symptoms by making disruptive sounds, noises, screaming, self-abusive acts, sexual behavior or disrobing in public, smearing/throwing food/feces, hoarding, rummaging through others belongings,
 - The resident engages in behavior that resists care by resisting medications/ injections, Activities of Daily Living (ADL) assistance, or eating.
- And, the Nursing Facility staff shall have established behavior baseline profile of the resident following R414-502-4 (6)(a) through (g) guidelines and implemented a behavior intervention program designed to reduce/control the aberrant behaviors, and a specialized document program that increases staff intervention in an effort to enhance the resident's quality of life, functional and cognitive status.

It should be noted that any MR/DD residents who are receiving the specialized rehabilitation services (SRS) add on rate will be excluded from receiving this add on rate.

Facilities that document patients that have behaviorally challenging problems as defined above will be paid an "add-on" rate as described in Section 930. A resident who qualifies for a Behaviorally Challenging add-on rate shall not receive any other add-on amount (i.e., Specialized Rehabilitation Services, etc.).

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900 RATE SETTING FOR NFs (Continued)

920b BEHAVIORALLY CHALLENGING PATIENT ADD-ON

This “add on” which was effective July 1, 2003, was designed to recognize and compensate providers for patients that require an inordinate amount of resources due to the intensive labor involved in their care.

Behaviorally challenging patients are defined as follows:

Behaviorally complex resident means a Long Term Care resident with a severe medically based behavior disorder (including but not limited to Traumatic Brain Injury, Dementia, Alzheimer, Huntington's Chorea) which causes diminished capacity for judgment, retention of information and/or decision making skills, or a resident, who meets the Medicaid criteria for Nursing facility level of care, and who has a medically based mental health disorder or diagnosis and has a high level resource use in the Nursing facility not currently recognized in the case mix system.

To qualify for a behaviorally challenging patient “add on” the provider must document that the patient involved meets the following criteria:

- The resident meets the criteria for Nursing facility level of care as found in the Utah Administrative Rule: Nursing Facility Levels of Care, R414-502,
- The resident has a primary diagnosis which is identified with the appropriate ICD9 code on the MDS as listed:
 - ICD9-331, Alzheimer's Disease,
 - ICD9-290, Dementia Other than Alzheimer's. This can include organic brain syndrome (OBS), chronic brain syndrome (CBS), senility, senile dementia, multi-infarct dementia, and dementia related to neurological disease other than Alzheimer's (e.g., Picks, Creutzfeld-Jacob, Huntington's disease, etc.),
 - ICD9-854, Traumatic Brain Injury (TBI).
- And, the resident has a history of regular/recurrent persistent disruptive behavior which is not easily altered evidenced by one or more of the following which requires an increased resource use from Nursing facility staff:
 - The resident engages in wandering behavior moving with no rational purpose, seemingly oblivious to their needs or safety,
 - The resident engages in verbally abusive behavioral symptoms where others are threatened, screamed at, cursed at,
 - The resident engages in physically abusive behavioral symptoms where other residents are hit, shoved, scratched, and sexually abused,
 - The resident engages in socially inappropriate/disruptive behavioral symptoms by making disruptive sounds, noises, screaming, self-abusive acts, sexual behavior or disrobing in public, smearing/throwing food/feces, hoarding, rummaging through others belongings,
 - The resident engages in behavior that resists care by resisting medications/ injections, Activities of Daily Living (ADL) assistance, or eating.

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900 RATE SETTING FOR NFs (Continued)

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- And, the Nursing Facility staff shall have established behavior baseline profile of the resident following R414-502-4 (6)(a) through (g) guidelines and implemented a behavior intervention program designed to reduce/control the aberrant behaviors, and a specialized document program that increases staff intervention in an effort to enhance the resident's quality of life, functional and cognitive status.

It should be noted that any MR/DD residents who are receiving the specialized rehabilitation services (SRS) add on rate will be excluded from receiving this add on rate.

Facilities that document patients that have behaviorally challenging problems as defined above will be paid an "add-on" rate as described in Section 930.

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900 RATE SETTING FOR NFs (Continued)

921 RUGs COMPONENT

The Resource Utilization Groups (RUGs) is a severity-based payment system. A facility case mix system is employed in the computation of the RUGs component of the per diem payment rate. The overall objective is to establish a Medicaid case mix index for each facility.

Minimum Data Set (MDS) data is used in calculating each facility's case mix index. This information is submitted by each facility and, as such, each facility is responsible for the accuracy of its data. (Inaccurate or incomplete data will be excluded from the calculation.) Case mix is determined by establishing a RUGs weight for each Medicaid patient. Available RUGs scores for each patient are combined with the scores of all other patients to establish a composite weight for all Medicaid patients in the facility. The composite weight is multiplied by a dollar conversion factor to arrive at a per diem amount for the facility payment rate. The "dollar conversion factor" is defined as the rate is established quarterly by the state that is determined as a result of consideration of the average case mix changes and the necessary resources to maintain proper care levels for the patients. Raw food is considered to be included in this component.

The RUGs component of the rate has been rebased on July 2, 2004, at the 96th percentile of historical costs as explained in Section 920. The results of these changes are reflected in the increased case mix component included in this section.

The per patient day base rate, on average, for all facilities is composed of the three components; property component, RUGs component and the flat rate component. An example of these components is as follows:

Component Amounts for July 2, 2004

Property component:	\$14.80
RUGs Component:	\$76.60
Flat Rate Component:	\$40.40
Total Average Rate:	\$131.80

Rates will be adjusted each July 1, based on the inflation factors adopted by the legislature, as set forth in Section 900, and FRV data that affect each of the components.

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900 RATE SETTING FOR NFs (Continued)

In addition to the base rate, the following add-on payments will be applied to qualifying facility payment rates in the proportion that the facility qualifies for the add-on factor. For example:

Quality Incentive	\$0.43
SRS	\$0.78
Behavioral Complex	\$1.63
Swing beds	\$0.43
Total Add-on	\$3.27

Note: the above example shows the total payout that may occur over all residents. A resident may only be eligible for one add-on amount at any particular time.

Example: a rate determination of facility A-1 Care (hypothetical) which had a case mix or severity index of 0.9562 and a qualified property amount of \$14.80 is as follows:

Property Payment ppd.:	\$14.80
RUGs Component:	
[Index] x [Case Mix Component ppd]:	
Or [0.9562] x [\$78.40] =	\$74.97
Flat Rate Component ppd:	\$38.60
Total Rate	\$128.37 + qualifying add-ons

Please note that urban / rural adjustment was not considered in this example as this was presented to demonstrate the use of a case mix adjustment on the rate only.

The facility case mix and resulting rate change will be computed quarterly.

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900 RATE SETTING FOR NFs (Continued)

922 FLAT RATE COMPONENT

The flat rate is a fixed amount paid for all Medicaid patients and reflects the proportion of the overall nursing home rate that is considered to not be variable in nature. The flat rate category is increased periodically for inflation. The flat rate component includes:

- (1) general and administrative,
- (2) plant operation and maintenance,
- (3) dietary (except raw food which is included in the RUGs component including dietary supplements),
- (4) laundry and linen,
- (5) housekeeping, and
- (6) recreational activities.

Effective July 2, 2004, the flat rate component amount is \$40.40 per patient day.

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900 RATE SETTING FOR NFs (Continued)

924 NEW FACILITIES

Newly constructed or newly certified facilities' rates will be calculated as follows:

Property component: For a newly constructed or newly certified facility that has not submitted an FCP or FRV Data Report, the per diem property tax and property insurance is the average daily property tax and property insurance cost of all facilities in the FRV calculation.

RUGs rate component: Newly constructed or newly certified facilities' RUGs component of the rate shall be paid using the average case mix index. This average rate shall remain in place for a new facility until such time as adequate MDS data exists for the facility, whereupon the provider's case mix index is established. At the following quarter's rate setting, the Department shall issue a new case mix adjusted rate.

Flat rate component: The flat rate component will be the same for all facilities.

An existing facility acquired by a new owner will continue at the same case mix index and property cost payment established for the facility under the previous ownership.

- (a) Subsequent quarter's case mix index will be established using the prior ownership facility MDS data combined with the new facility ownership MDS data.
- (b) The property component will be calculated for the facility at the beginning of the next SFY as noted in Section 634.

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 900 RATE SETTING FOR NFs (Continued)

926 UNDER-SERVED AREAS

When the Medicaid agency determines that a facility is located in an under-served area, or addresses an under-served need, the Medicaid agency may negotiate a payment rate that is different from the case mix index established rate. This exception will be awarded only after consideration of historical payment levels and need. The maximum increase will be the lesser of the facility's reasonable costs (as defined in CMS publication 15-1, Section 2102.2) or 7.5% above the average of the most recent Medicaid daily rate for all Medicaid residents in all freestanding nursing facilities in the state. The maximum duration of this adjustment is for no more than a total of 12 months per facility in any five-year period. The following guidelines and criteria apply to determination of these special rate adjustments for under-served areas:

- (A) A sole community provider that is financially distressed may apply for a payment adjustment above the case mix index established rate.
- (B) The application shall propose what the adjustment should be and include a financial review prepared by the facility documenting:
 - (i) the facility's income and expenses for the past 12 months; and
 - (ii) specific steps taken by the facility to reduce costs and increase occupancy.
- (C) The Department may conduct its own independent financial review of the facility prior to making a decision whether to approve a different payment rate.
- (D) If the Department determines that the facility is in "imminent peril" of closing, it may make an interim rate adjustment for up to 90 days.
- (E) The Department's determination shall be based on maintaining access to services on and maintaining economy and efficiency in the Medicaid program.
- (F) If the facility desires an adjustment for more than 90 days, it must demonstrate that:
 - (i) the facility has taken all reasonable steps to reduce costs, increase revenue and increase occupancy;
 - (ii) despite those reasonable steps the facility is currently losing money and forecast to continue losing money; and
 - (iii) the amount of the approved adjustment will allow the facility to meet expenses and continue to support the needs of the community it serves, without unduly enriching any party.

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900 RATE SETTING FOR NFs (Continued)

- (G) If the Department approves an interim or other adjustment, it shall notify the facility when the adjustment is scheduled to take effect and how much contribution is required from the local governing bodies. Payment of the adjustment is contingent on the facility obtaining a fully executed binding agreement with local governing bodies to pay the contribution to the Department. If the governmental agency receives donations in order to provide the financial contribution, it must document that the donations are "bona fide" as set forth in 42 CFR 433.54.
- (H) The Department may withhold or deny payment of the interim or other adjustment if the facility fails to obtain the required agreement prior to the scheduled effective date of the adjustment.

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900 RATE SETTING FOR NFs (Continued)

927 QUALITY IMPROVEMENT INCENTIVE

Funds in the amount of \$500,000 shall be set aside annually to reimburse facilities that have a quality improvement plan and have no violations that are at an Immediate jeopardy level, as determined by the Department, at the most recent re-certification survey and during the incentive period. The Department shall distribute incentive payments to qualifying facilities based on the proportionate share of the total Medicaid patient days in qualifying facilities. If a facility appeals the determination of a survey violation, the incentive payment will be withheld pending the final administrative appeal. On appeal, if violations are found not to have occurred at a severity level of Immediate jeopardy or higher, the incentive payment will be paid to the facility. If the survey findings are upheld, the remaining incentive payments will be distributed to all qualifying facilities.

Beginning July 1, 2006, facilities that have received a Substandard Quality of Care Level F, H, I, J, K, or L, as determined by the Department, at the most recent re-certification survey and during the incentive period will only be eligible for 50% of the possible Quality Improvement Incentive payout for their facility.

928 URBAN / NON-URBAN LABOR DIFFERENTIAL

In developing RUGs Component payment rates, the Department will periodically adjust urban and non-urban rates to reflect differences in urban and non-urban labor costs. The urban labor cost reimbursement cannot exceed 106% of the non-urban costs.

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900 RATE SETTING FOR NFs (Continued)

930 BEHAVIORALLY CHALLENGING PATIENT ADD-ON

Behaviorally challenging patients may qualify for a special add-on payment rate. The rate established for the base year of 2002 is considered to be \$6.60 per patient day (ppd) and is inflated to \$7.00 ppd for FY 2005. This rate was determined after extensive "on site" time studies at providers sites. The study determined that additional time involved by all levels of nursing care for these patients, and applied an average amount per hour. This add-on amount will be updated on an "as needed" basis or as noted in Section 900.

931 SPECIALIZED REHABILITATION SERVICES (SRS) FOR INDIVIDUALS

An amount is added to the facility rate that pertains to approved patients. Because the SRS rate is paid in addition of the facility specific rate, the additional payment provided to a facility as a result of this provision may not exceed the reasonable and documented cost of providing the services involved.

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1000 SPECIAL RATES INTENSIVE SKILLED

1010 INTRODUCTION

The objective of this section of the State Plan is to provide incentives for skilled nursing facilities, long term acute care and rehabilitation hospitals to admit high cost patients from acute care hospitals. Typically these patients are ventilator dependent or have a tracheostomy. Although the rate paid to a skilled nursing facility, long term acute care or rehabilitation hospital is much higher than the NF rate, it is less than the acute care hospital rate. A resident who qualifies for a special intensive skilled rate shall not receive any other add-on amount (i.e., Specialized Rehabilitation Services, Behaviorally Complex, etc.).

1020 RATE DETERMINATION

Each qualifying patient will have a contract rate which is determined by negotiations between the State and the skilled nursing facility, long term acute care or rehabilitation hospitals. The rate will consider specialized equipment and supplies as well as specialized care, including special rehabilitative needs. The rate will be in effect for a period specified in the contract. In addition, the intensive skilled payment is limited to the amount Medicare would pay for the same services at the same facility.

1030 QUALIFYING PATIENTS

To qualify for a special contract rate, the patient must meet the criteria of the intensive skilled level of care. Prior approval is required.

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1100 ICF/MR FACILITIES

1101 INTRODUCTION

This section deals with two types of ICF/MR providers—community providers and the State Development Center.

1105 GENERAL INFORMATION

Rate setting for ICF/MR facilities is completed by the Division of Health Care Financing (DHCF). Cost and utilization data are evaluated from facility cost profiles. The annual Medicaid budget requests include inflation factors for nursing facilities based on the Producer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics, with consideration given to the inflation adjustments given in prior years relative to the Producer Price Index. The actual inflation will be established by the Utah State Legislature.

1110 BACKGROUND

As a result of the active treatment requirements imposed by federal regulations, special consideration is given to payment rates for institutions for mentally retarded. A specific all-inclusive flat rate is negotiated each year for the patients in each facility with the exception of the State Development Center (See Section 1190).

1111 RATE SETTING

A single per diem rate is paid for all patients in the facility. This rate consists of two components; namely, the property component computed by the Fair Rental Value (FRV) methodology explained in Section 600, and flat rate (non property) component covering all other costs. Individual facility rates will vary according to historical payment levels and reported FCP costs. Except as discussed below under “add-on payment for enhanced behavioral interventions,” the rate covers all services, including day training, normally provided by ICF/MR facilities. These rates will be adjusted periodically by inflation factors as discussed in Section 1105. These services are discussed in more detail in Section 400. In addition to Section 400, the following additional clarification is provided:

1. Psychological testing and evaluation, as well as brain stem tests, are covered in the flat rate.
2. Day treatment services are incorporated into the flat rate. These services may vary depending on the needs of the patients.
3. Transportation to day treatment centers is included in the ICF/MR flat rate.

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1100 ICF/MR FACILITIES (Continued)

4. Add-on payment for enhanced behavioral interventions.

The intent of the enhanced rate is to allow for the provision of additional habilitative services for a defined period of time (typically up to four weeks for individuals who have a primary diagnosis of Mental Retardation/Developmental Disabilities, and are experiencing significant behavioral difficulties within an ICF/MR facility setting). The additional habilitative services include, but are not limited to, the following:

- I. Crisis intervention (including one to one staff to resident ratio and intensified behavior management programming);
- II. Psychiatric and other/additional professional consultations;
- III. Short-term crisis focused plan of care that accommodates the resident's on-going active treatment needs, while providing intensified services.

Eligibility criteria for this add-on are as follows:

- I. Currently be a resident at the community based ICF/MR facility;
- II. Currently have resided in an ICF/MR for a minimum of 90 days (which will allow the facility to exhaust its normal habilitative service delivery systems);
- III. Identification by the facility's professional staff that the resident presents an imminent danger to self and others, as evidenced by assaultive behaviors, physical destruction of environment, acute psychosis, attempted suicide, identified clinical depression and other conditions that are not responsive to the individual's existing behavioral and medication program(s), as applicable, or to the facility's general behavioral management approach(es) over a consistent and reasonable period of time.

Facilities will be paid an add-on amount of \$48.55 per patient day for those patients who have been approved by Utah's Bureau of Health Facility Licensure Certification and Resident Assessment for the Enhanced Behavioral Interventions add-on amount.

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1100 ICF/MR FACILITIES (Continued)

1112 INCORPORATION OF OTHER RULES

Facility Cost Profiles will continue to be required on an annual basis for reference and rate increase purposes. The reimbursement methodology for ICF/MR community providers incorporates sections 100 through 800 of Attachment 4.19-D to the State Plan.

1113 CLARIFICATION REQUESTS

Some provisions of the reimbursement system may require clarification. Written requests may be submitted for more detailed explanation. Further, the State may clarify provision of the State Plan through provider bulletins and provider manual revisions.

1115 NEW OWNERS

An existing facility acquired by a new owner will continue with the same per diem payment rate established for the previous ownership.

1190 ICF/MR PUBLIC INSTITUTION

The ICF/MR public institution (Utah State Developmental Center) is to be reimbursed retrospectively. This institution stands alone as a special provider of services. The size and characteristics of this facility require an independent categorization.

The needs for this categorization include:

1. Its actual costs are not stated on a basis suitable for comparison with other ICF/MRs.
2. It is approximately seven times larger than any other ICF/MR and, therefore, comparison between it and facilities which range in size from 15 to 83 beds is not appropriate.
3. The majority of the patients are profoundly impaired. They require more specialized and intensive services than ICF/MR patients in community facilities. The treatment of the ICF/MR public institution in a separate category was recommended by Lewin and Associates, a private consulting firm. In general, retrospective reimbursement uses an average per diem cost approach. Allowable costs are divided by patient days to determine the cost per patient day. Costs are reported on the facility cost profile (FCP). HCFA Provider Reimbursement Manual (HCFA-Pub. 15-1) is used to define allowable costs for FCP reporting purposes unless otherwise specified. One exception to the Provider Reimbursement Manual is the asset capitalization policy. This exception permits the ICF/MR public institution to only capitalize those assets costing more than \$5,000.

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1200 SUB-ACUTE CARE BEDS

The Department reimburses swing beds, transitional care unit beds, and small health care facility beds that are used as nursing facility beds, using the prior calendar year statewide average of the daily nursing facility rate.

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1300 QUALITY OF CARE INCENTIVE

Deleted 7-1-93

T.N. # 95-12

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Supersedes T.N. #

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1400 HOSPICE CARE

1410 INTRODUCTION

Hospice services are provided through home health agencies. The rates are described in Attachment 4.19-B Section DD.

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1500 FEE INCREASE

Deleted July 1, 2006

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1600 REBASING PAYMENT RATES

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1600 REBASING PAYMENT RATES (Continued)

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1700 ICF/MR RATE ADJUSTMENT

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1800 ENHANCED PAYMENT RATES FOR NURSING FACILITY PATIENTS

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1900 SPECIALIZED REHABILITATION -- MENTALLY RETARDED (NF CLIENTS)

1910 PAYMENTS

A payment rate differential is paid to nursing facilities with mentally retarded clients who need specialized rehabilitative services that are either not covered by the daily payment rate or not available from other providers covered by the State Medicaid Plan. The specialized rehabilitation services must be approved by Utah's Bureau of Health Facility Licensure Certification and Resident Assessment. Approval must be obtained before the additional services qualify for the rate differential. A resident who qualifies for a Specialized Rehabilitation Services rate shall not receive any other add-on amount (i.e., Behaviorally Complex, etc.).

The specialized rehabilitation rate differentials are established through negotiations between Division of Health Care Financing and individual nursing facilities. The negotiated rate is based on the estimated direct costs of providing the service. The rate is patient specific for the additional services provided by the Nursing facility. The rate is an average per diem rate for a one month period to coincide with the monthly "payroll" for each nursing home. For example, if the expected cost is \$20 per day for 23 days in December, the rate will be averaged over 31 days at \$14.84 per day for the qualifying patient. The rate differential is prospective for a full month. At the end of each month, the rate will remain the same or be renegotiated at the request of either the State or the provider. To obtain a new rate or the continuation of the existing rate differential, the provider must provide actual cost experience. The cost experience is limited to "direct cost". These direct costs are wages, benefits, and special supplies. Indirect costs are included in the existing basic flat rate. The amount paid will be subtracted from the nursing cost center when future rates are set to avoid duplicate payments.

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NURSING FACILITY - FACILITY COST PROFILE AND FRV DATA REPORT

The Facility Cost Profile and FRV Data Report are incorporated as part of this State Plan by reference. Copies of the forms are available, upon request, from division staff.

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ICF/MR FACILITY COST PROFILE AND FRV DATA REPORT

The Facility Cost Profile and FRV Data Report are incorporated as part of this State Plan by reference. Copies of the forms are available, upon request, from division staff.

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COMPUTATION OF PROPERTY COST REIMBURSEMENT

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APPLICATION OF INFLATION FACTOR

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